



General Assembly

***Amendment***

*January Session, 2009*

LCO No. **6840**

**\*SB0027106840SD0\***

Offered by:

SEN. MEYER, 12<sup>th</sup> Dist.

REP. ROY, 119<sup>th</sup> Dist.

To: Senate Bill No. **271**

File No. 411

Cal. No. 321

***"AN ACT CONCERNING FLOODPLAIN MANAGEMENT AND MILL PROPERTIES."***

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. Section 25-68d of the general statutes is repealed and the  
4 following is substituted in lieu thereof (*Effective October 1, 2009*):

5 (a) No state agency shall undertake an activity or a critical activity  
6 within or affecting the floodplain without first obtaining an approval  
7 or approval with conditions from the commissioner of a certification  
8 submitted in accordance with subsection (b) of this section or  
9 exemption by the commissioner from such approval or approval with  
10 conditions in accordance with subsection (d) of this section.

11 (b) Any state agency proposing an activity or critical activity within  
12 or affecting the floodplain shall submit to the commissioner  
13 information certifying that:

14 (1) The proposal will not obstruct flood flows or result in an adverse  
15 increase in flood elevations, significantly affect the storage or flood  
16 control value of the floodplains, cause an adverse increase in flood  
17 velocities, or an adverse flooding impact upon upstream, downstream  
18 or abutting properties, or pose a hazard to human life, health or  
19 property in the event of a base flood or base flood for a critical activity;

20 (2) The proposal complies with the provisions of the National Flood  
21 Insurance Program (44 CFR 59 et seq.), and any floodplain zoning  
22 requirements adopted by a municipality in the area of the proposal  
23 and the requirements for stream channel encroachment lines adopted  
24 pursuant to the provisions of section 22a-342;

25 (3) The agency has acquired, through public or private purchase or  
26 conveyance, easements and property in floodplains when the base  
27 flood or base flood for a critical activity is elevated above the  
28 increment authorized by the National Flood Insurance Program or the  
29 flood storage loss would cause adverse increases in such base flood  
30 flows;

31 (4) The proposal promotes long-term nonintensive floodplain uses  
32 and has utilities located to discourage floodplain development;

33 (5) The agency has considered and will use to the extent feasible  
34 flood-proofing techniques to protect new and existing structures and  
35 utility lines, will construct dikes, dams, channel alterations, seawalls,  
36 breakwaters or other structures only where there are no practical  
37 alternatives and will implement stormwater management practices in  
38 accordance with regulations adopted pursuant to section 25-68h; and

39 (6) The agency has flood forecasting and warning capabilities  
40 consistent with the system maintained by the National Weather  
41 Service and has a flood preparedness plan.

42 (c) The commissioner shall make a decision either approving,  
43 approving with conditions or rejecting a certification not later than  
44 ninety days after receipt of such certification, except that in the case of

45 an exemption any decision shall be made ninety days after the close of  
46 the hearing. If a certification is rejected, the agency shall be entitled to a  
47 hearing in accordance with the provisions of sections 4-176e, 4-177, 4-  
48 177c and 4-180.

49 (d) The reuse of mills and other brownfields, as defined in section  
50 32-9kk, shall be exempt from the certification requirements of  
51 subdivision (4) of subsection (b) of this section, provided the agency  
52 demonstrates to the commissioner's satisfaction: (1) The activity is  
53 subject to the environmental remediation requirements of the  
54 regulations adopted pursuant to section 22a-133k, (2) the activity is  
55 limited to the areas of the property where historical mill uses occurred,  
56 (3) any critical activity is above the five hundred year flood elevation,  
57 and (4) the activity complies with the provisions of the National Flood  
58 Insurance Program.

59 ~~[(d)]~~ (e) Any state agency proposing an activity or critical activity  
60 within or affecting the floodplain may apply to the commissioner for  
61 exemption from the provisions of subsection (b) of this section. Such  
62 application shall include a statement of the reasons why such agency is  
63 unable to comply with said subsection and any other information the  
64 commissioner deems necessary. The commissioner, at least thirty days  
65 before approving, approving with conditions or denying any such  
66 application, shall publish once in a newspaper having a substantial  
67 circulation in the affected area notice of: (1) The name of the applicant;  
68 (2) the location and nature of the requested exemption; (3) the tentative  
69 decision on the application; and (4) additional information the  
70 commissioner deems necessary to support the decision to approve,  
71 approve with conditions or deny the application. There shall be a  
72 comment period following the public notice during which period  
73 interested persons and municipalities may submit written comments.  
74 After the comment period, the commissioner shall make a final  
75 determination to either approve the application, approve the  
76 application with conditions or deny the application. The commissioner  
77 may hold a public hearing prior to approving, approving with  
78 conditions or denying any application if in the discretion of the

79 commissioner the public interest will be best served thereby, and the  
80 commissioner shall hold a public hearing upon receipt of a petition  
81 signed by at least twenty-five persons. Notice of such hearing shall be  
82 published at least thirty days before the hearing in a newspaper  
83 having a substantial circulation in the area affected. The commissioner  
84 may approve or approve with conditions such exemption if the  
85 commissioner determines that (A) the agency has shown that the  
86 activity or critical activity is in the public interest, will not injure  
87 persons or damage property in the area of such activity or critical  
88 activity, complies with the provisions of the National Flood Insurance  
89 Program, and, in the case of a loan or grant, the recipient of the loan or  
90 grant has been informed that increased flood insurance premiums may  
91 result from the activity or critical activity. An activity shall be  
92 considered to be in the public interest if it is a development subject to  
93 environmental remediation regulations adopted pursuant to section  
94 22a-133k and is in or adjacent to an area identified as a regional center,  
95 neighborhood conservation area, growth area or rural community  
96 center in the State Plan of Conservation and Development pursuant to  
97 chapter 297, or (B) in the case of a flood control project, such project  
98 meets the criteria of subparagraph (A) of this subdivision and is more  
99 cost-effective to the state and municipalities than a project constructed  
100 to or above the base flood or base flood for a critical activity. Following  
101 approval for exemption for a flood control project, the commissioner  
102 shall provide notice of the hazards of a flood greater than the capacity  
103 of the project design to each member of the legislature whose district  
104 will be affected by the project and to the following agencies and  
105 officials in the area to be protected by the project: The planning and  
106 zoning commission, the inland wetlands agency, the director of civil  
107 defense, the conservation commission, the fire department, the police  
108 department, the chief elected official and each member of the  
109 legislative body, and the regional planning agency. Notice shall be  
110 given to the general public by publication in a newspaper of general  
111 circulation in each municipality in the area in which the project is to be  
112 located.

113        [(e)] (f) The failure of any agency to comply with the provisions of  
114        this section or any regulations adopted pursuant to section 25-68c shall  
115        be grounds for revocation of the approval of the certification.

116        [(f)] (g) The provisions of this section shall not apply to any  
117        proposal by the Department of Transportation for a project within a  
118        drainage basin of less than one square mile."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	25-68d